



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No.717 of 2013 &
M.P.No.1 of 2013 & C.M.P.No.5063 of 2021

M/s.United India Insurance Co. Ltd.,
No.73-C, M.T.H.Road,
Ambattur, Chennai - 600 053. ...Appellant/II Opposite Party

..Vs..

1. D.Anand

2. K.Thatchanamurthy

...Respondents/Applicant and
1st Opposite Party

Prayer: This Civil Miscellaneous Appeal has been filed under section 30 of the Workmen Compensation Act against the Award dated 15.10.2012 made in W.C.No.459 of 2012 on the file of the Commissioner for workmen Compensation [Deputy Commissioner of Labour - II] at Chennai.

For Appellant : Ms.R.Sree Vidhya

For respondents : --

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Order of the Learned Commissioner for Workmen's Compensation [Deputy Commissioner of Labour - II], Chennai in W.C.No.459 of 2012 dated 15.10.2012.

2. The case of the claimant before the Tribunal is that when the first respondent was working under the second respondent, on 23.07.2011, as a machine operator, he sustained injuries. On the claim petition filed by the first respondent, the learned Commissioner of Workmen Compensation has awarded a sum of Rs.1,39,243/- to the first respondent. It is further Ordered that out of the above amount Rs.51,719/- has to be paid by the appellant herein and the balance sum of Rs.87,524/- has to be paid by the second respondent. Challenging the same, the present appeal has been filed.



3. The contention of the appellant before this Court is that the claimant is not an employee under the second respondent at the relevant point of time and his name is not found in Muster Roll or in any document. It is his further contention that no complaint was registered either before the Inspector of Factories or the matter was reported to the police authorities. Hence, the award is liable to be set aside.

4. The main contention of the learned counsel for the appellant is that the first respondent is not working under the second respondent and hence, he is not liable to pay any compensation to the first respondent. It is pertinent to note that such a stand has not been taken by the appellant before the learned Commissioner of Workmen Compensation. The contention of the appellant before the Commissioner is that the claimant has not followed any precautionary measures at the time of working and he has cleaned the machine while the machine was in operation. Therefore, now the appellant cannot take a stand that the claimant is not an employee under the second respondent and hence, they are not liable to any amount to the claimant. It is an admitted fact that the first respondent sustained injuries while he was working under the second respondent. Hence, there is no grounds made out to interfere with the well considered Award of the Commissioner.

5. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition in M.P.No.1 of 2013 is closed. As main Appeal itself has been dismissed, miscellaneous petition in C.M.P.No.5063 of 2021 filed for substitute of service is also closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vrc

To

The Commissioner for Workmen's Compensation,
[Deputy Commissioner of Labour - II],
Chennai - 6



Copy to

The Section Officer
VR Section
High Court, Madras 104.

WEB COPY

+1 CC to Mrs.R. Sree Vidya, Advocate sr 11022.

Civil Miscellaneous Appeal No.717 of 2013

PA(CO)
SP(10/06/2022)